



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2022-0547]

RIN 1625-AA00

Safety Zone; Lowering of Gerald Desmond Bridge; Long Beach, California

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for waters near Gerald Desmond Bridge during the removal of the over-the-water span. This action is necessary to provide for the safety of life on these navigable waters near Long Beach, CA, from July 9 through July 11, 2022, where the over-the-water portion of the Gerald Desmond Bridge will be lowered and transported to pier T, Port of Long Beach. This rulemaking will prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port (COTP), Los Angeles – Long Beach, or a designated representative.

DATES: This rule is effective from 12:01 a.m. on July 9, 2022, through 11:59 p.m. July 11, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2022-0547 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email LCDR Maria Wiener at Sector Los Angeles – Long Beach Waterways Management Branch at (310) 521-3860 or email D11-SMB-SectorLALB-WWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

On March 3, 2022, the Port of Long Beach notified the Coast Guard that it will be removing the over-the-water span of the Gerald Desmond Bridge from 12:01 a.m. on July 9, 2022, to 11:59 p.m. on July 11, 2022. The removal will take place at mile 3.3 over Long Beach Harbor on the section of the bridge that is over the water. Hazards from removal include falling debris and construction work conducted on a barge that will be moored in such a way that it blocks the entire channel. The Captain of the Port (COTP), Los Angeles – Long Beach has determined that potential hazards associated with the removal of Gerald Desmond Bridge would be a safety concern for anyone within a 200-yard radius of freight barge FOSS 3612 (O.N. 1255436) during lowering and transport of the bridge span.

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable; the Coast Guard must establish this safety zone by July 9, 2022. This urgent safety zone is required to protect the maritime public and the surrounding waterways from hazards associated with the bridge lowering and removal project. The

Coast Guard lacks sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Delaying the effective date of this rule would be contrary to public interest because action is needed to ensure the safety of life on the navigable waters near Long Beach, CA, during the bridge demolition activities scheduled to begin on July 9, 2022.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Los Angeles – Long Beach (COTP) has determined that potential hazards associated with the Gerald Desmond Bridge span removal and transport on July 9 through July 11, 2022, will be a safety concern for waterways users within a 200-yard radius of freight barge FOSS 3612 (O.N. 1255436). This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone before, during, and after the scheduled demolition.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within a 200-yard radius north of the bridge to 1,000-yard radius south of the Gerald Desmond Bridge before, during, and after the scheduled event. The Coast Guard is issuing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

IV. Discussion of the Rule

The COTP is establishing a safety zone from 12:01 a.m. on July 9, 2022, to 11:59 p.m. on July 11, 2022. The safety zone covers all navigable waters within a 200-yard radius of freight barge FOSS 3612 (O.N. 1255436). The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled lowering of the over-water-span of the Gerald Desmond Bridge. The COTP will announce the dates and times of enforcement via local notice to mariners. No vessel or person will be

permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text appears at the end of this document.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size location and duration of the safety zone. The safety zone will only last 3 days and will be limited in size to the area around the bridge.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of

1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting 48 hours that would prohibit entry within a 200-yard radius surrounding freight barge FOSS 3612 (O.N. 1255436) due to potential hazards associated with the removal and transport of the over-water portion of the Gerald Desmond Bridge. It is categorically excluded from further review under paragraph L of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping

requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS.

1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5;

Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

2. Add § 165.T11-104 to read as follows:

§ 165.T11-104 Safety Zone; Lowering of Gerald Desmond Bridge; Long Beach, California.

(a) Location. The safety zone covers all navigable waters within 200-yard radius surrounding freight barge FOSS 3612 (O.N. 1255436) due to potential hazards associated with the removal and transport of the over-water portion of the Gerald Desmond Bridge, located approximately at mile 3.3 over Long Beach Harbor on the section of the bridge that is over the water.

(b) Effective period. This section is effective from 12:01 a.m. on July 9, 2022, until 11:59 p.m. on July 11, 2022.

(c) Enforcement period. This section will be enforced from 12:01 a.m. on July 9, 2022, through 11:59 p.m. on July 11, 2022.

(d) Regulations. (1) In accordance with the general regulations in §165.23, entry of vessels or persons into the zone is prohibited unless specifically authorized by the Captain of the Port Los Angeles Long Beach (COTP) or designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of the COTP.

(2) In the event of an emergency, vessels requiring entry into the safety zone must request permission from the COTP or a designated representative. To seek entry into the safety zone, contact the COTP or the COTP's representative by telephone at (310) 521-3801

or on VHF-FM channel 16. To coordinate the movement of vessel traffic, vessel operators may contact the Jacobsen Pilot Station at (562) 432-0664 or the Water Traffic Coordinator, Andres Velasco, at (602) 376-5765.

(3) Persons and vessels permitted to enter the safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(e) Information broadcasts. The COTP or a designated representative will inform the public when the safety zone is being enforced via a Broadcast Notices to Mariners.

Dated: June 30, 2022.

R. D. Manning,

Captain, U.S. Coast Guard,

Captain of the Port, Los Angeles – Long Beach.

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